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BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

JEFF HATCH-MILLER, Chairman
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AZ CORP COMMISSION
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IN THE MATTER OF THE PETITION OF
DIECA COMMUNICATIONS, INC., dba
COVAD COMMUNICATIONS COMPANY
FOR ARBITRATION OF AN
INTERCONNECTION AGREEMENT WITH
QWEST CORPORATION

Docket No. T-03632A-04-0425
Docket No. T-01051B-04-0425

STATEMENT OF COMMISSION STAFF

On August 26, 2005, Arbitrator Nodes asked Staff and the parties to file a statement on the impact of the Federal Communications Commission's ("FCC") *Report and Order* in Docket Nos. CC 02-33 et al. on the issues in this proceeding.¹ Staff requested an extension of time to file its statement until at least three weeks after the FCC released its *Report and Order*. Staff's request was granted by Procedural Order dated August 30, 2005. The FCC released its *Report and Order and Notice of Proposed Rulemaking* on September 23, 2005.² Staff filed a copy of the *Report and Order* with the Hearing Division on November 3, 2005 and requested, on behalf of all parties, two (2) weeks to comment on the *Report and Order*. The Arbitrator granted the Staff's request and ordered parties to file a statement by no later than November 21, 2005.

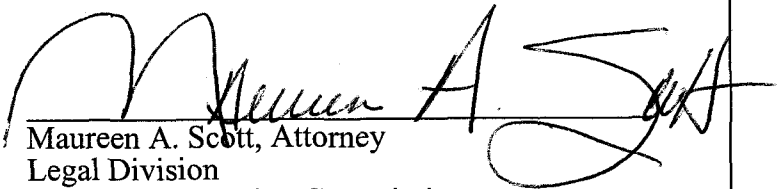
While Staff has not been an active participant in this proceeding, it believes based upon its review of the FCC's *Report and Order*, that the *Order* would have no impact on the unbundling issues raised in this case, to the extent Covad seeks the unbundled network elements to provide a telecommunications service. The FCC spoke directly to this issue at paras. 126 and 127 of its *Report and Order*. It concluded that "...nothing in this Order changes a requesting telecommunications

¹ At the time the Arbitrator issued his Procedural Order, the FCC had not yet released its *Report and Order*; but had only announced through a Press Release that it had adopted the *Report and Order*. In addition, the Press Release gave a very cursory overview of the action taken by the FCC.

² See *In the Matters of the Appropriate Framework for Broadband Access to the Internet over Wireline Facilities*, et al., CC Docket No. 02-33 et al., *Report and Order and Notice of Proposed Rulemaking*, (Rel. September 23, 2005).

1 carriers' UNE rights under section 251 and our implementing rules." *Id.* at para. 127. Thus, to the
2 extent that Covad seeks to obtain network elements to provide a telecommunications service (as
3 opposed to an information service), the FCC's Order would not impact Covad's ability to obtain
4 those network elements. In addition, Staff does not believe that the FCC's *Report and Order* would
5 have any impact upon the 271 issues raised by Covad.

6 RESPECTFULLY submitted this 21st day of November, 2005.

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